

Presumption of innocence and journalistic ethics: the Aitana case

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Abstract: On 26 November 2009, a 3-year old girl, Aitana, died in Arona, Tenerife. The cause of her death according to the medical report pointed towards the existence of various polytraumas caused by physical abuse, together with vaginal and anal injuries. Diego Pastrana, the mother's partner, was arrested. He told the Guardia Civil officers that the injuries were the result of an accident in a children's playground a few days before. An official press release announced that he had been charged. Simultaneous trials — the real trial and the trial by media — began immediately. As Diego appeared in handcuffs, journalists en masse clamoured to deplore the events and condemn the accused. The public authorities of the Canary Islands added their own high-sounding declarations of disgust. Four days later, the autopsy ruled out the presumed and, as it turned out, erroneous cause of death. Diego, who suffers from depression, was admitted to hospital. He left the Canary Islands some days later. Some members of the media, the minority, put their own behaviour under the microscope; a few journalists apologised. That was about the extent of it. The law and journalistic ethics share the same view of how news coverage of this type of story should be approached. Nevertheless, the ease with which a reporter can distort reality is a serious cause for concern. This case-study of Spanish newspapers will thus enable us to identify potential and probable failures in news reporting from multiple perspectives: improper use of journalistic categories (news, opinion and interpretation), insufficient checking of news sources, imprecise style, tone and sensationalist headlines, flaws in structuring the message and inadequate used of images.

Keywords: journalistic ethics; news; presumption of innocence; media; Spain.

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Translated from the Spanish original by **Fiona Robb**

1. Chronology of the Aitana case

On the afternoon of 21 November 2009, a 3-year-old girl, Aitana, had an accident in a children's playground in Arona in southern Tenerife. She was being looked after at the time by the 24-year-old Diego Pastrana, an unemployed bricklayer and the partner of the girl's mother, Belén García [1] (Chart 1). At the health centre of El Mojón, where Diego went with his sister-in-law Natalia, the doctor who examined the girl diagnosed a mild nasal traumatism. During the next 72 hours Aitana carried on her life as normal, although her bruised face naturally worried her family.

On 24 November, after coming home from school, Aitana showed signs of tiredness, vomited several times and also fainted. At about 10 pm that evening, Diego took her back to the health centre. The doctor who examined her identified evidence of physical ill-treatment (traumatisms, burns) and sexual abuse (anal and vaginal tears). After suffering cardiac arrest, given the seriousness of her condition Aitana was rushed to the Hospital de Nuestra Señora de La Candelaria (Santa Cruz de Tenerife), where she was admitted to intensive care. In line with the procedure to be followed in cases of child abuse, the doctors informed the police.

Diego was arrested by the judicial police of the Guardia Civil and taken to the station at Playa de las Américas. He claimed during the mandatory interrogation that Aitana's injuries had been caused by falling off a swing. This was corroborated by the mother and the girl's teacher, who had heard it from Aitana herself. Diego completely confirmed his testimony in his statement for the court.

An initial medical report ruled out sexual abuse straightaway, even though the opinion of the four doctors who examined Aitana continued to maintain that the bruises, erosions and cerebral oedema originated in an episode of physical abuse. Aitana's condition deteriorated on 25-26 November and she died after failing to recover from a fourth cardiac arrest. Diego appeared in court on 27 November, accused of murder and child abuse.

Chart 1. Chronological sequence in the Aitana case

Date	Events	Medical diagnosis	Police actions	
N O V E M B E R	21	In the afternoon, Aitana has an accident in a children's playground in Arona (Tenerife)	1st diagnosis: mild nasal traumatism (A&E of El Mojón health centre)	
	22	Spends the day in the swimming pool of her housing development		
	23	Goes to school as normal		
	24	Goes to school. Following the worsening in her condition during the afternoon, Diego takes her back to the health centre. Transfer to the Hospital de Nuestra Señora de la Candelaria	2nd diagnosis: physical and sexual abuse (anal and vaginal tears, various traumatisms, burns to the back and spine (El Mojón health centre) 3rd diagnosis: sexual abuse is ruled out (Hospital de Nuestra Señora de la Candelaria)	Diego arrested by the judicial police of the Guardia Civil de Playa de las Américas. His version of events during the interrogation turns out to correspond to the facts in the end
	25	Aitana continues in intensive care		Diego in local police and Guardia Civil custody. Official communication: accused of murder and physical abuse
	26	Continues in intensive care. Death of Aitana		Diego under Guardia Civil custody
	27	Authorities of the Canary Islands hold an event condemning the girl's "murder"		Diego appears in court
	28		4th diagnosis: the autopsy rejects the previous interpretations: injuries caused by resuscitation or surgery, no sexual abuse, allergy (not burns)	Judge Nelson Díaz orders Diego's release without charge in the afternoon
	30	Diego is admitted to hospital for severe depression		
D E C E M B E R	1	Aitana's funeral in Parla (Madrid). Public events demanding justice for Diego proclaiming his innocence		
	3	Diego's family announce that he has left the Canary Islands because of media harassment		

Source: author

On 28 November, the autopsy carried out at the forensic institute in Santa Cruz de Tenerife rejected the circumstantial evidence and all the accusations: the report stated that the erosions “did not show the features expected of a burn and could be explained by allergic symptoms (e.g. a cream)”. Nor could “traumatic injuries to the genitalia or anus suggesting sexual aggression” be detected. It concluded, as noted in the order of release without bail and indicated by the forensic report, that the injuries detected were “entirely compatible with having been caused by a fall, presumably accidental, approximately 5-6 days earlier”.

Diego was consequently released without charge. He was admitted to the psychiatric unit of the Hospital de Nuestra Señora de la Candelaria on 30 November suffering from severe depression. He did not attend Aitana’s funeral on 1 December in Parla (Madrid) and 48 hours later his family announced that he had left the island, unable to cope with the media harassment.

2. Objective

In 1992, the historic Alcásser case shocked Spanish society. It revealed to the general public the lengths to which certain sectors of the media, particularly television (Arnau, 1998), were prepared to go in their supposed desire to report the news (Consejo Audiovisual de Cataluña, 1997; Enguix, 2001: 51–68; Izaguirre, 2001: 93–104). The same misguided path has been repeated on various occasions in journalistic practices and messages disseminated in press, radio, television and digital media reporting on recent cases in which children and teenagers have died (the Mari Luz case, the Marta del Castillo case) or episodes of presumed sexual abuse (the Arregui case, the Kárate case).

It is quite common — and a notable functional flaw — to create the mere effect of reality, something which is extremely dangerous: a premature version by the media, barely checked or verified, becomes embedded in the public mind in such a way that it is difficult or impossible to change later on when new and more reliable data become available (Herrero, 2003: 87).

In view of certain types of media coverage of court cases or tragic events related to crimes, the public is bound to ask whether journalists observe the principle of the presumption of innocence and how reporters themselves judge their actions in this sensitive area. Where do the limits to a parallel trial by media lie and how can amends be made for unnecessary intrusion into the rights of those affected?

A detailed analysis of the Aitana case, which has barely been touched upon in academic studies (Rodríguez-Borges, 2010), dealing with the legal, ethical and

professional aspects of this type of news coverage, will throw light on the shadowy journalistic procedure in similar situations.

Our main objective is to define precisely the strengths and weaknesses in the reporting methods of a representative segment of the Spanish press in relation to a typical case. This objective will be achieved by pursuing a number of subsidiary aims:

- a) Study of reporters observance of the nature and purpose of the diverse journalistic categories.
- b) Analysis of the presence and nature of news sources in the journalistic messages contained in the newspapers under consideration.
- c) Investigation of the images and methods used in photojournalism (e.g. presence, use, framing, edition, rhetoric).
- d) Examination of headline composition of the pieces in the sample.

3. Hypothesis

In relation to the present case-study there are sufficient indications that clearly point towards widespread journalistic madness in the major general Spanish newspapers as well as the main free newspapers. However, academic integrity and fairness require that, as well as verifying the information that underlies and confirms our main assumption, we qualify and specify exactly the actions of each media outlet. Our general hypothesis is based on the following six specific conjectures (H):

- H1: Presence of trial by media in the majority of the newspapers analysed.
H2: Erratic and inadequate use of the qualification “presumed” when referring to the suspect.
H3: Improper presence of value judgements by the reporter in news and interpretative categories (news story, chronicle,^{*} reportage).
H4: Groundless speculation about real events. Deficient checking of the story.
H5: Dissemination of photographs violating fundamental rights or journalistic ethics.
H6: Few instances of rectification, correction and apology for errors and deficiencies in the news coverage found in different newspapers.

4. Theoretical framework

4.1. The legal perspective: a person is innocent until proven guilty

* Translator’s note: the chronicle (*crónica*) is a type of newspaper article found in Spain and Spanish-speaking countries. It is considered by some a mixed genre between pure news and interpretation. There is no exact equivalent journalistic category in English, where “chronicle” refers above all to a historical chronology of events recorded by a contemporary. The journalistic chronicle in Spain is also chronological in form, unlike, for example, a reportage.

María-Luisa Cava-de-Llano (2009: 23), the acting Defensora del Pueblo, Spain's ombudsman, rightly wrote as a result of the Aitana case:

“We tend to think in established democracies that rights are a gift that you don't have to earn every day. We tend to think that these rights have always existed, that it wasn't necessary to fight for them; and that it isn't necessary now to fight all the time to preserve and guarantee them. Yet for centuries it was enough for someone to point the finger of accusation for just a moment for another person's fate to be decided”

Indeed, before the advent of the modern period the dominant ethical perspective was to seek to appeal to the judge's mercy in contrast to the prevailing rigor and severity of the age. The system of the time was based on the assumption of the quasi-guilt of the accused, a fact which, together with the prevailing social inequality in and before the law, made it virtually impossible to apply the principle of *in dubio pro reo*, since the accused could be condemned to an arbitrary sentence in the case of uncertainty. This esteemed general legal principle of innocent unless proven guilty is regarded as the inevitable consequence of the principle of *nulla poena sine crimine, nullum crimen sine culpa* (there is no sentence without a crime, there is no crime without guilt), in other words the requirement that the punishment is preceded by the certainty of guilt, since any doubt in the mind of the judge should lead to acquittal (Tomás-y-Valiente, 1987: 9–17).

Despite the humanitarian impulse of the Enlightenment, the presumption of innocence did not in fact appear until the French Declaration of the Rights of Man and of the Citizen of 1789. It was not enshrined in Spain until the Constitution of 1978 (Art. 24.2), when the principle became a fundamental constitutional right binding upon all organs of the state and to be applied without delay [2]. The presumption of innocence constitutes a subjective public right of every individual, an essential element in an objective legal system of a community organised as the setting for humane, fair, and peaceful coexistence (STC 25/1981, Fund. Jur. 5º) (Bravo, 2009: 33).

The Roman jurist Ulpian declared that it is preferable to let a crime go unpunished than condemn an innocent person (*satius est impunitum relinqui facinus nocentis quam innocentem damnari*): every person accused of an offence is presumed innocent until his guilt is legally proclaimed in a final judgement by a judge, just as laid down by the European Convention of Human Rights (Art. 6.2) and the Charter of Fundamental Rights of the European Union (Art. 48).

The accused must actually be treated as not having committed any offence until the state, through its prosecuting authorities, adduces sufficient evidence to satisfy an independent and impartial tribunal that he is guilty (Commission of the European

Communities, 2006: 5; STC 157/1995, Fund. Jur. 2º). Nevertheless, the authorities may make information about the investigation public and express suspicions of guilt (*Krause contra Suiza*, nº 7986/77, 13DR 73, 1978) as long as the conjecture is not a declaration sentencing the accused (*Allenet de Ribemont contra Francia* A 308, 1995, 37, 41) and is expressed with discretion and prudence.

Spain's constitutional court, the Tribunal Constitucional (TC), in its demand for accuracy in news reporting stresses the presumption of innocence as one of the criteria taken into account in verifying the journalist's diligence in properly checking the published facts (STC 219/1992). The European Court of Human Rights also requires that journalists respect the right of the accused to be presumed innocent (*Dun Roy and Malaurie vs. Francia*, judgment of 3 October 2000).

Neither in semantics nor the law is there room for the concept of *presumed guilty* (Barata, 2009: 223–224). It is thus illegitimate to call someone guilty at the time of his arrest. Gabriela Bravo, member and spokesperson for Spain's supreme judiciary body, the Consejo General del Poder Judicial, as a result of the Aitana case (2009: 33), argued that the “presumption of guilt” as standard, since no one ever talks of someone as presumed innocent. She goes on to lament how the situation is made worse by the public and shameless exhibition of someone who has been condemned without evidence, whereby society creates first and second-class citizens depending on the circumstances: only for some is it demanded that their honour and image be respected (for example, politicians accused in corruption cases). Unfair discrimination, until the TC “consecrates a multi-speed citizenship, of course”, wrote De-la-Serna, deputy editor for international relations at the newspaper *El Mundo*, with irony in a self-critical and heartfelt article (2009: 53).

The Aitana case would be one of these “show arrests” in which the detainee is shown in handcuffs so that he can be judged by society and his reputation ruined among his family and social group (Cava-de-Llano, 2009: 23). Such scenes undermine the Law of Criminal Procedure (*Ley de Enjuiciamiento Criminal*), which stipulates that both the arrest as well as the remand to custody should be implemented in such a way as to cause the least detriment to the detainee or prisoner in terms of his person, reputation and property (Art. 520.1).

The conclusion is clear, as summed up by the jurist Alberto Jabonero (2009: 29): to immediately hold someone guilty who has simply been arrested on the basis of more or less solid circumstantial evidence signifies “not only a scandal that might cut short the life of the person concerned, but also the trivialisation of the criminal process and effectively denotes the lack of true conviction in the benefits to be gained from observing the presumption of innocence”. The Aitana case would truly become a harmful paradigm.

4.2. Journalistic codes of ethics condemn trial by media

Following Espín (1990), we understand by trial by media a group of news items about a matter that is *sub iudice* appearing in the media over a period of time, these items being used to produce a judgement concerning the legal and ethical propriety of the behaviour of those individuals involved in events under judicial investigation. This assessment is transformed into a type of trial by public opinion. After a period of reporting stories about the events together with value judgements of varying degrees of explicitness, editorials and contributions by journalists, the individuals concerned appear either innocent or guilty in the eyes of the public, or at least a segment of it.

Jiménez-de-Parga (2009: 3) condemns the fact that, as well as having no place in a state governed by the rule of law, the harm done by trial by media, culminating in a verdict by public opinion, is irreparable. It would not exist where journalistic investigation discovers unlawful issues and situations which end up in court, since in such case the media are discharging their constitutional function (Barrero, 2001: 173).

Ethical principles and journalistic codes of ethics deal constantly with the issue of the presumption of innocence (Maciá, 2010: 111–128). The journalist is required to respect this fundamental right both in the news items he publishes or broadcasts and the opinions he voices [3] relating to ongoing criminal cases or proceedings [4]. Thus, no one can be regarded to have committed a crime until the courts have pronounced a final judgement, “because a journalist tells a story, he does not pronounces judgements” [5].

Respect for the presumption of innocence is a principle that the reporter and the media ought to observe rigorously [6], scrupulously [7], unquestionably [8] and without exception [9]. The aim is to avoid as far as possible the damage caused by not observing his journalistic duty. This accounts for the importance of not intruding on the different situations in which an accused person might find himself in succession: arrest, appearing before court, judicial decision about the lawfulness of prosecution, oral hearing and judgement (when non-guilty) [10]. Consequently, a special bail is inexcusable during the initial investigative proceedings since it is not unusual, as occurred in the Aitana case, that there is no more than mere suspicion or circumstantial evidence, not corroborated later on (Orenes, 2009).

For this reason, one of the ideas discussed is the elimination of the identification of the friends and relatives of the person accused or found guilty of a crime unless it is necessary for the information to be complete and balanced [11]. As far as possible, it is noted, any harmful consequence for a detainee, defendant or accused, or for his family and social circle, must always be avoided, regardless of the type of media

reporting [12]. This would imply leaving out names, addresses, occupations or any other identifying detail.

The terminology used may be crucial, not to mention obvious the variety of denominations used. Those under arrest should be called accused, defendant or presumed perpetrator [13]; or supposed, probable, possible or hypothetical [14]; or “presumed culprit” and “suspect” [15].

It is accepted that in some cases, as exceptions to the rule, such as when the perpetrator of the crime is a public and well-known figure or the very accused has declared himself guilty [16]; but there are discrepancies [17], since confusing plausibility with truth is a cardinal error.

There are no lack of codes that successfully advocate avoiding the publication of photographs of the affected parties due to the damage this could cause to their image [18] by making their social integration more difficult; this even applies to presumed terrorists [19].

The rules make explicit the principle of not slipping into the mindset of trial by media and avoiding that the news becomes a way of taking sides for or against individuals on trial [20].

The freedom to report the improper or criminal behaviour of people in the public eye does not allow room for derogatory terms or insults regardless of how reprehensible the behaviour from an ethical or legal perspective [21]. Even less, then, in the case of the private citizen.

As will be seen, a good number of these precepts, including the cardinal ones, were violated on a large scale in the Aitana case from various platforms, at successive points in time and by different media. This study aims, within the area under study, to identify how this occurred and find out why.

5. Methodology

5.1. Selection of the sample

To study the way in which the Aitana case was dealt with by the general Spanish press our selection criterion was the ranking of print media published by the *Estudio General de Medios* (EGM) (April 2009 to March 2010), which studies the consumption of Spanish media, in which the number of daily readers during the period of the event were measured. The sporting and financial press is omitted as too specialist. The newspapers selected in order of importance are *El País* (2,022,000), *El*

Mundo (1,330,000), *El Periódico* (765,000), *Abc* (756,000) and *La Vanguardia* (735,000). Free newspapers were added to the sample: *20 minutos* (2,353,000), *Qué* (1,563,000) and *ADN* (1,341,000). The eight daily newspapers represent 10,865,000 readers altogether, 80.2% of the reading public of general daily newspapers. The Madrid edition, where there was one, was always selected for the analysis.

Nevertheless, we also took into account isolated opinion-style journalistic texts of a most specialist nature (editorials, articles, columns of the readers' ombudsman), which we consider relevant in the sense that they presuppose an example of journalistic self-criticism.

The period in which the sample was taken corresponds to that spanned by the chronological sequence of the events that make up the Aitana case and its aftermath, both in the journalistic and the judicial spheres (see section 1): from 24 November until 6 December 2009, in other words from when Aitana was admitted to hospital until the last relevant self-critical text published in the newspapers. It should be pointed out from the beginning that, given the reduced frequency with which they are published, the impact of the story in the free press is exceptionally low, as can be seen in the total number of messages we have analysed.

As regards journalistic categories, we have taken into account news (the news story), interpretative formats (report, chronicle, interview) and opinion (editorial, articles, columns, letters to the editor, essays).

Table 1. Aitana case. Sample of journalistic messages analysed

Date	Number of examined messages	20 Minutos	Qué!	ADN	El País	El Mundo	El Periódico	Abc	La Vanguardia	
November	24	-	-	-	-	-	-	-	-	
	25	-	-	-	-	-	-	-	-	
	26	2	1	1	-	-	-	-	-	
	27	1	-	-	-	-	1	-	-	
	28	4	-	-	-	1	1	1	1	
	29	6	-	-	-	1	1	1	1	2
30	3	-	1	-	-	1	-	1	-	
December	1	9	1	1	-	2	3	1	1	-
	2	14	4	1	-	1	3	1	3	1
	3	10	1	1	1	1	2	1	1	2
	4	2	-	-	1	-	1	-	-	-
	5	-	-	-	-	-	-	-	-	-
	6	10	-	-	-	1	1	-	8	-
Total	61	7	5	2	7	13	6	16	5	

Source: author

5.2. Treatment of the data

Using the total set of 61 journalistic messages, we proceeded to analyse the content, which consisted in the detailed study of the principal features of interest for the purpose pursued by the empirical work: 1. Determine the suitability of the journalistic category used depending on the observance of its purpose shown in each case. 2. Verify the use and corroboration of news sources (quality, quantity and relevance). 3. Observe the stylistic traits in language: features and type of headline. 4. Determine the handling of graphic resources: nature and evaluation.

At the same time, in line with the legal parameters of the current regulations (see section 4.1), we compared the observance required in substance and in form of the right to the presumption of innocence. Simultaneously, in the same way we set out to compare the principles laid down in the profession's ethical codes and similar regulations (reports, recommendations), which we have previously examined (see section 4.2). The intention is to evaluate precisely the observance or violation of the guidelines in the daily professional practice of reporters.

Finally, it is useful to compare the actual content of the messages of reflection and self-criticism formulated by journalists, individually or as a group, published in newspapers as a means of understanding the degree to which the coverage of the Aitana case was evaluated from the very heart of each media company.

6. Empirical study

6.1. Divergent and uneven use of categories: superficiality in reporting

With regard to the peculiar relationship between the purpose and the form to which the journalistic messages conform, we detected the following peculiarities:

- a) The temporal sequence in the use of diverse journalistic categories makes sense, predictable in fulfilling the respective purpose and nature of each: profusion of news stories early on; increasing contextualisation by means of interpretative categories (particularly the chronicle); and gradual increase in messages with opinion elements (Table 2).
- b) The dearth of interpretative content is noteworthy. The percentage of messages of opinion and news is similar (42.7% compared with 39.3%) (Table 3). In contrast, the presence of interpretative categories is much lower (18%), that of reportage minimal (3.3%) and that of interviews non-existent. In the categories of opinion, the column predominates, with barely a couple of editorials. Although large in number (23%), the letters to the editor are concentrated in two newspapers: *Abc* and *20 minutos*.
- c) The free press dispenses with interpretative categories. The news story has priority in *El Periódico* and, particularly, *Abc*. *La Vanguardia*, with less coverage, tends towards opinion. The greatest variety of categories is found in *El Mundo*, with a clear preference for the chronicle, and *El País*, with the most evenly spread coverage.

Table 2. Aitana case. Journalistic categories (sequential by date)

	Date	Number of examined messages	News	Chronicles	Interviews	Reportages	Editorials	Columns	Articles	Letters to the Editor
November	24	-	-	-	-	-	-	-	-	-
	25	-	-	-	-	-	-	-	-	-
	26	2	2	-	-	-	-	-	-	-
	27	1	1	-	-	-	-	-	-	-
	28	4	1	3	-	-	-	-	-	-
	29	6	4	1	-	-	-	1	-	-
	30	3	2	-	-	-	1	-	-	
December	1	9	5	-	-	1	-	2	1	-
	2	14	4	1	-	1	2	1	-	5
	3	10	4	3	-	-	-	2	1	-
	4	2	-	1	-	-	-	-	-	1
	5	-	-	-	-	-	-	-	-	-
	6	10	1	-	-	-	-	1	-	8
Total		61	24	9	-	2	2	8	2	14

Source: author

Table 3. Aitana case. Use of journalistic categories (by headline)

Newspapers	News	Chronicles	Interviews	Reportages	Editorials	Columns	Articles	Letters to the Editor
20 Minutos	3	-	-	-	-	-	-	4
Qué!	5	-	-	-	-	-	-	-
ADN	-	-	-	-	-	1	-	1
El País	2	1	-	1	1	1	1	-
El Mundo	3	5	-	-	1	2	1	1
El Periódico	4	1	-	1	-	-	-	-
Abc	6	1	-	-	-	1	-	8
La Vanguardia	1	1	-	-	-	3	-	-
Categories	24		11			26		

Source: author

6.2. Insufficient checking of news sources

At 1.48 pm on 25 November, editors received a communication from the Press Office of the Guardia Civil in Santa Cruz de Tenerife. It stated that a man had been arrested accused of causing injuries and burns to a 3-year-old girl [22]. This information alone was tempting enough to imagine an occurrence with sufficient ingredients to become a front-page story, especially at a local level. The initial news coverage by the press of the Canary Islands has been studied in detail by Rodríguez-Borges (2010). The errors of lack of precision, risky headlines, sensationalism, failure to check facts and sources and deficient professional self-criticism of the Canarian *Diario de Avisos* were shared with a number of newspapers of national circulation.

A reporter should always remember that in legal matters one of the parties — usually the person accusing, reporting the crime or making a complaint — is more inclined to talk to journalists in the desire to win over public opinion and that of the court itself. While this ease of access should not be squandered, the version given should always be checked. If the opposing party or his representatives refuses our request for information, this position should be respected, clearly indicating such in the news article [23]. It must not be forgotten that every source is motivated by certain interests, regardless of their legitimacy and scope.

Table 4. Aitana case. Presence of news sources

Informative sources	Total	20 Minutos	Qué!	ADN	El País	El Mundo	El Periódico	Abc	La Vanguardia
Values		-	-	-	+	+	-	-	-
Guardia Civil sources	4						1	2	1
Judicial sources	1							1	
Local police sources	1						1		
Sources close to the investigation	2						1	1	
Medical sources	1					1			
City council sources (Arona)	1							1	
Unidentified	1	1							
Auto judicial	5	2				1		1	1
Patient Ombudsman Association	2				1			1	
Ministry of Health of Canary Islands	6	1			1	1	2	1	
Themis Women Lawyers Association	1					1			
Mercedes Roldós, Minister of Health	1							1	
Clara María Pérez, Arona's councilor	1				1				
Manuel Reverón, Arona's councilor	1				1				
José Antonio Cuéllar, National Inst. of Toxicology	1				1				
Javier Arenas, secretary of FAPE	2				1		1		
Paz Lloria, Lawyer Professor	1						1		
Isabel de Luis, Women Institute of Canary Islands	1					1			
Inés Rojas, consejera Bienestar Social	1					1			
Plácido Alonso, defence counsel	18	4	2		3	3	3	3	
Vanesa García, Aitana's aunt	1		1						
Canarias Radio	7	1	1		1	1	1	1	1
<i>El País</i>	1	1							
Efe news agency	1		1						
Total	62	10	5	-	10	10	11	13	3

Source: author

In the case under examination, one would think that at the beginning there would be a balanced news contrast in view of the typology and presence of diverse sources. However, a detailed breakdown containing the sequence of events, categories used and function of each headline reveals the incorrect procedure of some journalists and the collective errors committed by them:

- a) There is an unjustified abuse of anonymous sources, particularly in early reports on the story (“sources from ...”) (17.7%). This excess creates a lack of precision and undermines the credibility of the message, despite the apparent weight of the source-authority (e.g. Guardia Civil, local police, local council, doctors). Basically, *Abc* and *El Periódico* commit this error.

- b) The most used type of source is that of institutions (54.8%), whether anonymous or with a vague (22.6%) or personal (14.5%) attribution. There are undoubtedly unavoidable sources of reference in the coverage of events, which, as in this case, are consulted by journalists. The problem lies in the failure to check sources and the premature circulation of the information. Indeed, the use of leaks is openly acknowledged in pursuit of an exclusive: “The medical reports in the possession of the Benemérita [Guardia Civil] yesterday, whose content this newspaper was able to learn...” (*Abc*). Hence, for an editorial in *El País* (2009: 24) this meant that the medical error had then been exacerbated by the media, both hard copy and digital, which not only assumed that the leaked diagnosis was correct without checking it further, but presented it in some instances in the most bloodthirsty terms.
- c) There is a wide use of expert sources from the health, legal and police sectors. However, they are concentrated in three newspapers (*El País*, *El Mundo* and *El Periódico*). They are ignored by the free press as well as by *Abc* and *La Vanguardia*, which hardly reported the story.
- d) Apart from *20 minutos*, the free press, while containing less coverage due to the lower frequency of publication, hardly uses news sources except for citing general official sources or, where appropriate, the obligatory reference to the other media that feed them.
- e) The outstanding source is Plácido Alonso, the lawyer defending Diego Pastrana, with 18 appearances. He is followed by sources of similar magnitude among themselves. the health department of the Canary Islands, the Guardia Civil and the order of acquittal by Judge Nelson Díaz. All media cited Canarias Radio for the defendant’s controversial statements to the station, but this was a one-off case.
- f) There is a notable omission of sources linked, directly or indirectly, to the victim (mother, relatives, teachers, neighbours, friends). It is not possible to establish the reasons behind this omission, which could be a variety (e.g. refusal to make statements, inaccessibility, respect for privacy, staff shortages).

The comparison and checking of news sources turns out to have been poor. The inconsistencies are sometimes glaring. When reporting the release without charge of Diego, whom *Abc* branded a murderer, the same reporter referred to Aitana as the girl “who was initially considered to be the victim of child abuse”. If Pastrana was not the perpetrator, the possibility that it could be someone else was broached, a hypothesis considered the day before. There is a blatant failure to check the facts: Diego is 24 or 25 depending on the day, the source or the newspaper.

The most serious error was the invention of facts: lying, the opposite extreme of journalism. Hence, the non-existent confession of the blows to Aitana (Yoldi, 2009: 14): “The boyfriend of Aitana’s mother admits hitting her” (*El Mundo*). There were even a number of articles based on this lie (Rahola, 2009: 31), even the truth was known when they were published. This is a terrifying practice because of the reactions news stories trigger in people and the way they can move a society.

6.3. Improper use of images

It is unlikely that there are many cases in the press in which the visual coverage of a story is based almost exclusively on a single image, which nevertheless does not detract from that image’s news, interpretative or biased nature. This is achieved simply by editing and adjusting an original. Diego Pastrana was photographed once but was represented on countless occasions. Each image focuses on the subject as needs dictate, as can be seen in the peculiar temporal and interpretative sequence.

Table 5. Aitana case. Graphic coverage in the press

	Date	Analysed photos	20 Minutos	Qué!	ADN	El País	El Mundo	El Periódico	Abc	La Vanguardia
November	24	-	-	-	-	-	-	-	-	-
	25	-	-	-	-	-	-	-	-	-
	26	-	-	-	-	-	-	-	-	-
	27	-	-	-	-	-	-	-	-	-
	28	5	-	-	-	1	1	1	2	-
	29	4	-	-	-	-	1	1	2	-
December	30	2	-	2	-	-	-	-	-	-
	1	5	1	1	-	1	2	-	-	-
	2	7	-	3	-	-	-	2	2	-
	3	-	-	-	-	-	-	-	-	-
	4	-	-	-	-	-	-	-	-	-
	5	-	-	-	-	-	-	-	-	-
Total	6	1	-	-	-	1	-	-	-	-
		24	1	6	0	3	4	4	6	0

Source: author

The photos used by the press display the following features:

- a) Global scarcity and partial inequality. During the period under examination, the newspapers analysed published 24 images, a low number given the importance of

the media and the impact of the story. A significant unevenness in coverage can be identified: none (*ADN*, *La Vanguardia*), medium (*El País*, *El Mundo*, *El Periódico*) and abundant (*Abc*, *Qué!*).

- b) Homogeneity in the evolution of graphic reporting. It is possible to detect a chronological transformation in the way in which Diego was judged in accordance with the interpretation of events. The different stages range from Diego's guilt, to his innocence, finally ending with presenting him as a victim.

The virtually exclusive source of images undoubtedly contributed to this phenomenon. The photographs from the Spanish news agency Efe (63.6%) in which the accused appears; image and authorship vary only for the photographs of Aitana's funeral (16.7%).

- c) Judgemental editorial treatment. As the accused's innocence is revealed, not only is the frame modified (eliminating people or elements) but the individual's identity is hidden.
- d) Improper images. French legislation, for example, rightly prohibits the publication of images in which an arrested individual appears handcuffed before he has been sentenced, which is why it is common for either the shackles or the hands to be covered with some item of clothing or a file, or for the images to be published with the relevant area pixelated or blurred. The issue is raised from time to time when debating the arrest of terrorists or politicians on trial for corruption. Graphic coverage is not generally questioned as easily for other types of story.

In contrast, Diego was shown handcuffed over and over again. Only once he began to be considered innocent and, especially, a victim, did his face disappear (as a means of hiding his identity), including cutting off the photo at the head. For the general public, appearing handcuffed alongside a couple of police officers while leaving a Guardia Civil station generally means only one thing, that you are guilty. Reporters — and their newspapers — took part in setting the scene. Erroneous, unjust and cruel.

Diego guilty (Figs. 1–3). The earliest photographs in the Aitana case show the presumed perpetrator, clearly revealing his identity, handcuffed and accompanied by two officers of the Guardia Civil, whose faces are digitally obscured. The same image, published by Efe was framed to suit apparent layout requirements or to stress the judgement handed down by the newspaper. *Abc* focused, for example, on the eyes of the “murderer of a little 3-year-old girl”. Hence, the proximity and focus on Diego's face. The simple fact of public exhibition is itself a violation of his image, harm which

contributes to the interpretative weight of being in police custody: the typical prejudice of “if they’ve arrested him, he must have done something ...”



Fig. 1: *Abc*



Fig. 2: *El Mundo*
El Periódico



Fig. 3: *El País*

Diego innocent (Figs. 4–7). Already published archive images are used, although the editing shows signs of an attempt to improve Diego’s image. The first sign is the gradual disappearance of the officers who accompanied him when he was brought before court.



Fig. 4: *Abc*

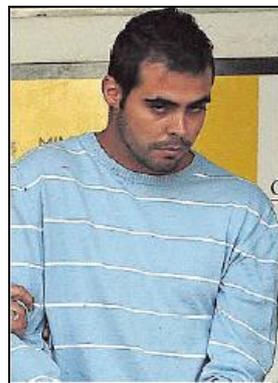


Fig. 5: *Abc*

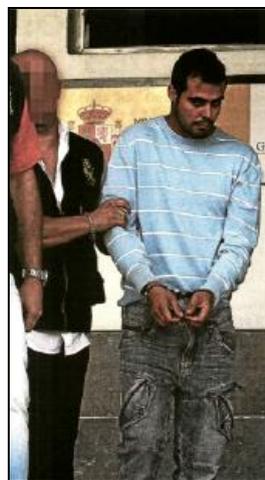


Fig. 6: *El Mundo*
20 minutos



Fig. 7: *El Periódico*

Diego victim (Figs. 8–21). The graphic coverage of the Aitana case undergoes a complete turnaround. First, figures are removed from the same news agency photographs (the officers recede or simply disappear). This softens the inevitable association of police-benevolent in contrast to arrested-malevolent. Second, the image of the shackled hands is omitted, or, if the hands do appear, the face is omitted to preserve the desired anonymity. A third variation, in the same absolutory line, consists

in using to techniques to blur Diego's face. Fourth, Diego himself even completely disappears and messages of support proclaiming his innocence are reproduced. Finally, images of Diego's relatives begin to appear, showing their pain and suffering, during Aitana's funeral, when they were still forced to insist on his innocence.



Fig. 8: *El Mundo*



Fig. 9: *20 minutos*

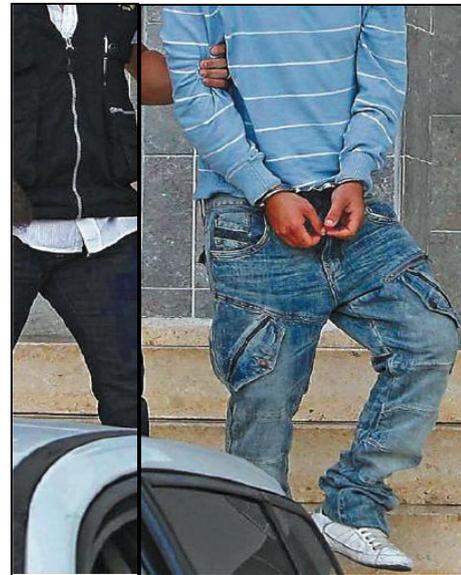


Fig. 10: *El País*



Fig. 11: *Qué!*



Fig. 12: *Abc*



Fig. 13: *El Periódico*



Fig. 14: *El Periódico*
Qué!



Fig. 15: *Qué!*

Fig. 16: *Qué! Abc*



Fig. 17: *El País*



Fig. 18: *Qué!*

Fig. 19: *Abc*

Fig. 20: *El Mundo*



Fig. 21: *Qué!*

6.4. Inappropriate style and choice of language

It is not unusual for some headlines to go beyond what the text allows for (Pérez-Oliva, 2010: 37–38), a paradoxical practice relatively common in journalism. This is an area in which serious errors were clearly committed, as pointed out in pieces of self-criticism (De-la-Serna, 2009: 53). Identifying circumstantial evidence with reality violates the presumption of innocence.

First of all, affirmative news headlines take for granted that certain events under investigation are true, in other words that what appears plausible in journalistic terms becomes reality. This is a major error. The heading was generally liable to leave out the “presumed”, although the term was found in the body of the message. For instance, a journalistic chronicle in *Abc* repeatedly used the term “presumed” on as many as six occasions: once in the intro, once under the photo and four times in the body of the chronicle. Yet the heading was still “Boyfriend, babysitter and murderer” (Álvarez, 2009: 29).

This incongruity becomes widespread when the headline not only assumes Diego’s guilt from the beginning, but also that certain events which had not even occurred were beyond doubt: murder (*Abc*), physical abuse (*El Mundo*, *El Periódico*, *Abc*), sexual abuse (*El Periódico*, *20 minutos*, *Qué!*), confession of the accused (*El Mundo*). Once again *Abc* stands out for its imprudent approach. Twenty-four hours after condemning the accused, totally ignoring the presumption of innocence, the newspaper announced on its front page the story of the release without charge of the “presumed perpetrator”.

If the headline captures the reader’s interest and sums up the main idea of the message, the seriousness of the incoherence of trying to respect the presumption of innocence of the person under arrest while proclaiming his guilt can be appreciated: “The presumed author of the girl’s death hit her ...” (*El Mundo*).

The author’s personal opinion has no place in these news stories. “The expression in the eyes of the murderer of a 3-year-old girl” was the headline of *Abc*. “A new headline in the evil epidemic of childhood abuses does not wait to be checked, we have to spit it out with urgency, demand life in prison, even the death penalty”, wrote Bonet in his column (2009: 21).

The temporal sequence in the headlines in the Aitana case shows two widespread erroneous practices (Chart 2): a) expressing the conjectures or circumstantial evidence as real facts beyond doubt; b) indiscriminately mixing one’s own principles and headline styles from different journalistic categories, changing the nature and purpose of the message’s headline depending on each case.

Chart 2. Temporal sequence of headlines in the Aitana case [24]

	News story	Chronicle / reportage	Opinion
<i>El País</i>	<ul style="list-style-type: none"> • A 3-year-old girl dies with evidence of child abuse • Accused is released without charge following girl's death in Tenerife 	<ul style="list-style-type: none"> • Nothing can make up for being wrongly accused • Aitana's step-father leaves the Canary Islands because of pressure 	<ul style="list-style-type: none"> • Tomorrow it could be us • Guilty innocent • The "rogue effect" of sensationalism
<i>El Mundo</i>	<ul style="list-style-type: none"> • Presumed perpetrator of girl's death hit her but did not rape her • The man cleared of the death of Aitana to sue doctors • The man wrongly accused of killing a girl devastated and admitted to hospital • Pastrana's lawyer demands an investigation from Ministry of Interior 	<ul style="list-style-type: none"> • Boyfriend of Aitana's mother admits beatings • I didn't kill or abuse her • Guardia Civil forced Diego to look at photos of Aitana's autopsy • "Look what you've done to the girl!" • "My lawyer has all he needs to go after everyone, one by one" • A journalist provoked insults of Diego Pastrana 	<ul style="list-style-type: none"> • The great carnival • This horrible presumption of guilt • Someone should pay for lynching of Diego • Diego Pastrana and the presumption of innocence
<i>El Periódico</i>	<ul style="list-style-type: none"> • Arrested for abusing the 3-year-old daughter of his partner • Girl dies beaten and burned • Released and cleared the man accused of the death of a girl • Admitted to hospital for depression the man wrongly accused of killing a girl • Lawyers demand presumption of innocence observed 	<ul style="list-style-type: none"> • Aitana case, another violation of the presumption of innocence • Step-father of Aitana says police threatened him 	
<i>La Vanguardia</i>	<ul style="list-style-type: none"> • 3-year-old girl from Tenerife dies because of an accident 	<ul style="list-style-type: none"> • "I was treated worse than a dog" 	<ul style="list-style-type: none"> • There are times when... • Diego K. • Innocent
<i>Abc</i>	<ul style="list-style-type: none"> • Victim of an error • Judge releases without charge the man arrested after the death of Aitana • Diego's lawyer says that "only the media have recognised their error" • Aitana's funeral becomes the scene of calls for justice for Diego 	<ul style="list-style-type: none"> • The expression in the eyes of the murderer of a 3-year-old girl • Boyfriend, babysitter and murderer • Farewell to the girl whose step-father was wrongly accused • Diego, Aitana's step-father: "I was treated worse than a terrorist" 	<ul style="list-style-type: none"> • Aitana's death
<i>20 minutos</i>	<ul style="list-style-type: none"> • Abuse of a 3-year-old girl • Step-father wrongly accused in hospital • Admitted to hospital the man accused of the death of the girl in Tenerife • "I was treated worse than a terrorist, everyone's going to pay" 		
<i>Qué!</i>	<ul style="list-style-type: none"> • Arrested for abusing the 3-year-old daughter of his partner • Man accused of killing and raping a girl to sue doctors • Man accused of Aitana's death admitted to hospital 	<ul style="list-style-type: none"> • "No one raped or beat Aitana. Diego is completely without blame" • Diego: "I was treated worse than a dog or a terrorist" 	
<i>ADN</i>			<ul style="list-style-type: none"> • But then

Source: author

6.5. Journalistic self-criticism: accepting blame

Finding signs of physical or sexual abuse when there were none points to a probable medical error; basing an official police accusation on this opinion may also be one; mobilising society from the authorities to condemn and protest against events that never happened, a political precipitation. A chain of errors for some (Pardellas and Gómez, 2009: 28) though not for Juan-Manuel de-Prada (2009: 13), who reject in his column the explanation of “a tragic series of medical, police and journalistic errors”, the result of simple negligence: the ridicule of Diego was the “product of a moral gangrene corrupting the whole of society”. Justice demands that the responsible institutions be purged in the appropriate form and by the stipulated procedure.

The Aitana case revealed major excesses and deficiencies in daily journalistic practice. It is of the utmost interest because it illustrates the approach of journalists as a group when they commit grave errors and violate the ethical principles of the profession, if not the law. Although not in all newspapers nor by all reporters, the assumption of guilt resolves the different false paths in the same way.

There is acceptance for the fact that the right to the presumption of innocence enshrined in the legal system was blatantly broken. “The Aitana case banishes once again the presumption of innocence” was the headline of *El Periódico de Aragón* (2/12/2009) in the subsequent uproar; or “trampled upon” in the opinion of *El País*; or “run roughshod over” (*El Periódico, La Vanguardia*). We are undoubtedly facing trial by media (*El País*). There was a lack of self-control in the view of the jurist Luis Martí-Mingarro of the committee of ethics of the federation of Spanish press associations (FAPE): “A personal and direct accusation of criminal behaviour of a particularly degrading kind was made and for which society as a whole feels an enormous degree of repulsion”.

At the same time, repeated examples of self-praise can be found in the press in stressing the “humbleness” of the media in recognising their errors in the words of Plácido Peña, Pastrana’s lawyer (*Abc, El Mundo*). Unfortunately, the lawyer’s reasoning was erroneous: the “media reported what they were told”. However, the journalist is not the conveyor of self-interested versions of sources nor a personal or institutional spokesperson but an investigator in search of the truth. The justification of the president of the press association of Tenerife, Juan Galarza, is worth noting: “We went to the official sources which we always use, we scrupulously observed procedure”. In some case, this was immediately followed by pointing the finger at those yet to apologise, the Canarian authorities (*Abc*).

“As soon as we knew the truth, the media recognised their mistake and *Abc* gave him an apology”, said the editor of the Madrid newspaper (Expósito, 2009). Yes, in a blog in the form of a one-minute video. Insufficient in every respect since the emotional harm caused to Diego Pastrana is difficult to repair. This is even more so

when the very arenas that, mercilessly driven by error and sensationalism, failed to observe the principle of proportionality from the start: to devote the same space in repairing the image as they had in tarnishing it. Where is therefore the true desire for correction? It is not enough to gloss over the blunder by printing four letters from readers critical with the newspaper (*Abc*), mitigated by two praising the later *mea culpa*. *El Mundo*, in an editorial (2009: 3), after attacking the doctors, security forces and public authorities, settled the subject in two lines: “The media have nothing to be proud of either, since the publication of his image only served to stigmatise him”.

Yet another example is *El Periódico* which, despite recognising its mistakes, attempted to minimise the effect of its conduct since “the story took up an extremely modest amount of space and had a more balanced focus” than in *Abc*.

This journalistic coverage could only be understood because of “a gangrenous wound in the social sub-consciousness” that would explain that the media, contemptuous of the ethical codes that ought to govern the investigation of the news, took for granted Diego’s guilt, piling upon him their condemnations and anathemas”, denounced De-Prada (2009: 13), an opinion shared by other journalists (Quadrado, 2009: 26). The secretary general of FAPE, Javier Arenas, apologised on behalf of the profession: “Cases like these should make us think about whether we aren’t going beyond what is common sense, reasonable, socially responsible and lawful”.

Are these just crocodile tears? Perhaps. “Healthy self-criticism ... until a new case turns up and once again they fall into the same excesses” (Pérez-Oliva, 2009: 31). Indeed, while Diego remained in hospital for an anxiety attack and under medical sedation administered by the psychiatrists treating him, Canarias Radio, a regional public station, broadcast a previously recorded interview (unknown to Diego) in which he gave expression to his pain and anger (Rodríguez-Borges, 2010). All to obtain an exclusive, which was reproduced widely in the press (*Abc*, *La Vanguardia*, *El País*, *El Periódico*, *20 minutos*, *El Mundo*).

At the same time, there was the parasitic approach of a reporter from Medianews Canarias, which provided footage to the news agency Efe and the Telecinco television channel in which it could be seen how the reporter incited a woman to insult Diego as he arrived in court. He even suggested that she use the slur “Villain!”. Pure sensationalism.

Milagros Pérez-Oliva, the readers’ ombudsman at *El País*, rightly condemned the fact that the media cruelty continued even after Pastrana had been shown to be innocent. We share her view that her newspaper’s coverage was the most proper, proportionate and adequate, as the comparison of journalists’ work confirms.

Unfortunately “the presumption of innocence in the digital age is under threat by immediacy and the distortion of sources, not to mention the forgetfulness of professional ethics”, writes Bonet (2009: 21). This is very true.

7. Conclusions

In the analysis of the media coverage of the Aitana case certain characteristics in the newspapers with widest circulation stand out which ought to give pause for thought about the working methods and the professional assumptions of journalists when faced with similar events in the future:

- a) Presence of trial by media in the majority of newspapers examined. As Josep-Carles Rius, dean of the College of Journalist of Catalunya, pointed out, there was also a “summary trial and judgment”. The two extremes in press coverage were represented by *El País*, which was appropriate, and *Abc*, which was outrageous.
- b) Erratic use of the term “presumed” when referring to the suspect. Indeed, the word hardly appears in headlines, and at the same time the presumption is combined with value judgements and conclusive intentions; the term is even used later once Pastrana had been officially found innocent.
- c) The presence of value judgements by reporters in the news and interpretive categories is confirmed. The personal opinion of the reporter in messages such as news story, chronicle or reportage is not relevant for the reader, who neither expects or asks for it (e.g. “small body”, “brutal aggression”, “impassive expression”, “shocking”).
- d) Groundless speculation regarding real facts. Interpretation is present in the majority of the newspaper headlines in which an untrue fact is affirmed to be real, attributing a crime to an innocent person or recreating non-existent situations or facts which are not true. The checking of news sources is generally inadequate; the number of sources insufficient and their identification sometimes non-existent. The homogeneity of reporting is overwhelming.
- e) Publication of images that violate fundamental rights or applicable ethical norms. The gradual concealment of the accused’s face, the disappearance of his cuffed hands, cutting out the police officers accompanying him, all are irrefutable evidence of the power of press photos to create interpretation and influence opinion. Meagre respect for Diego Pastrana’s right of image.
- f) Few and variable rectifications, corrections and apologies in the different newspapers for their reporting. Despite the widespread recognition by journalists

as a group of the wrong, there is no shortage of justifications or praise for their actions. They do not consider or argue for specific measures to avoid a repeat of these mistakes. They forget the best cure: good reporting, in other words, journalism.

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8. Bibliography

- Álvarez, M. (2009): “Novio, canguro y asesino”, *Abc*, 28 November, p. 29.
- Arnau, R. (1998): “La justicia en 625 líneas”, *Revista Latina de Comunicación Social*, 8, August. La Laguna (Tenerife): Universidad de la Laguna, retrieved 10 January 2011, at: <http://www.ull.es/publicaciones/latina/a/54arn.htm>
- Aznárez, J.J. (2009): “La crucifixión de Diego P.”, *El País Domingo*, 6 December, pp. 10–11.
- Barata, F. (2009): “La devaluación de la presunción de inocencia en el periodismo”, *Anàlisi*, 39, pp. 217–236.
- Barrero, A. (2001): “Cuando la prensa hace de juez”, *Ámbitos. Revista Andaluza de Comunicación*, pp. 171–189.
- Belda, E. (2001): “La presunción de inocencia”, *Parlamento y Constitución. Anuario*, 5, pp. 179–204.
- Bonet, J. (2009): “Diego K.”, *La Vanguardia*, 2 December, p. 21.
- Bravo, G. (2009): “Presunción de inocencia y cultura democrática”, *El País*, 11 December, p. 33.
- Cava-de-Llano, M.-L. (2009): “Diego Pastrana y la presunción de inocencia”, *El Mundo*, 3 December, p. 23.

- Commission of the European Communities (2006): “The Presumption of Innocence”, green paper COM (2006) 174 final, 26 April.
- Consejo Audiovisual de Cataluña (1997): *La celebració dels judicis i el seu tractament per televisió: informe sobre el tractament televisiu del judici del crim d' Alcàsser*. Barcelona: CAC/Generalitat de Catalunya.
- De-la-Serna, V. (2009): “Esa horrible presunción de culpabilidad”, *El Mundo*, 1 December, p. 53.
- De-Prada, J.-M. (2009): “La muerte de Aitana”, *Abc*, 30 November, p. 13.
- El Mundo (2009): “Alguien debe pagar por el linchamiento a Diego”. Editorial, 2 December, p. 3.
- El País (2009): “Culpable inocente”. Editorial, 2 December, p. 24.
- Enguix, S. (2001): “Efectos de los juicios paralelos del caso Alcásser y debate en torno a la libertad de expresión”. In J.V. Gavaldá, J.M. Bernardo and N. Pellisser (eds.). *Justicia y representación mediática*. Madrid: Biblioteca Nueva, pp. 51–68.
- Espín, E. (1990): “En torno a los llamados juicios paralelos y la filtración de noticias judiciales”, *Revista del Poder Judicial*, núm. Especial XIII, pp. 123–130.
- Expósito, A. (2009): “Abc pide disculpas a Diego”, 30 November. Retrieved 15 May 2010 from the blog *El foco del director*: <http://www.abc.es/blogs/angel-expósito/public/post/abcpide-disculpas-a-diego-2440.asp>
- Gistau, D. (2009): “El gran carnaval”, 1 December, *El Mundo*, p. 22.
- Herrero, C. (2003): *Periodismo de sucesos y tribunales. Tratamiento informativo de la violencia social*. Sevilla: Padilla Libros.
- Izaguirre, T. (2001): “Telejuicios y juicios paralelos”. In J.V. Gavaldá, J.M. Bernardo and N. Pellisser (eds.). *Justicia y representación mediática*. Madrid: Biblioteca Nueva, pp. 93–104.
- Jabonero, A. (2009): “Mañana podemos ser nosotros”, *El País*, 1 December, p. 29.
- Jiménez-de-Parga, M. (2009): “Los nefastos «juicios paralelos»”, *Abc*, 4 August, p. 3.
- Larraya, J.-M. (2007): “La presunción de inocencia”, *El País*, 24 June, p. 25.

- Maciá, C. (2010): “El quehacer periodístico ante la presunción de inocencia”. In S. Alsius and F. Salgado (eds.). *La ética informativa vista por los ciudadanos. Contraste de opiniones entre los periodistas y el público*. Barcelona: Editorial UOC, pp. 111–128.
- Orenes, J.-C. (2009): “Presunción de inocencia, honor y libertad de información. A propósito de la sentencia del TEDH de 9 de abril de 2009 (PROV 2009, 167981)”, *Actualidad Jurídica Aranzadi*, 787, 3 December, p. 1.
- Pardellas, J.-M. and Gómez, R.-G. (2009): “Nada puede reparar al falso culpable”, *El País*, 1 December, pp. 28–29.
- Pérez-Oliva, M. (2010): “Atados a la fuente judicial”, *El País*, 18 April, pp. 37–38.
- (2009): “El ‘efecto villano’ del sensacionalismo”, *El País*, 6 December, pp. 31–32.
- Quadrado, S. (2009): “Inocente”, *La Vanguardia*, 3 December, p. 26.
- Rahola, P. (2009): “Hay momentos en que...”, *La Vanguardia*, 29 November, p. 31.
- Rodríguez-Borges, R.-F. (2010): “¡Grítele, señora! El caso Aitana o la manipulación del acontecimiento informativo”, *Espéculo. Revista de estudios literarios*, 44. Retrieved 15 October 2010 at:
<http://www.ucm.es/info/especulo/numero44/caitana.html>
- Tomás-y-Valiente, F. (1987): “«In dubio pro reo», libre apreciación de la prueba y presunción de inocencia”, *Revista Española de Derecho Constitucional*, 20, May–August, pp. 9–34.
- Yoldi, J. (2009): “Fracasar con estilo”, *El País*, 8 December, p. 14.

9. Notes

- [1] Events summarised in the order releasing Diego Pastrana without bail issued by the court (Juzgado de Primera Instancia e Instrucción N° 7 de Arona) on 28 November 2009: Release order without bail. Procedimiento: Diligencias Previas no. 2681/09. Retrieved 12 November 2010 at:
<http://estaticos.elmundo.es/documentos/2009/11/28/autoarona.pdf>
- [2] Cf. STC 31/1981, Fund. Jur. 2º, JC II, p. 213 et seq. The guarantee is enshrined internationally in the Universal Declaration of Human Rights of 10 December

1948 (Art. 11.1); the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (Art. 6.2) and the International Covenant on Civil and Political Rights of 16 December 1966 (Art. 14.2).

- [3] Resolution 1003 on the ethics of journalism, Council of Europe (Art. 22); Codi deontològic dels periodistes catalans (Art. 10); Código Deontológico do Xornalismo Galego (Art. 10); Libro de Estilo de *Berria* (Art. 3.3); Barcelona TV. Llibre d'estil (Art. 2.2.22) and Estatuto de Información de RTVE (Art. 9.14).
- [4] Resolution 1003 on the ethics of journalism, Council of Europe (Art. 22); Codi deontològic dels periodistes catalans (Art. 10); Código deontológico de la profesión periodística (Federación de Asociaciones de la Prensa de España) (Art. 5); Código Deontológico do Xornalismo Galego (Art. 10); Libro de Estilo of *Abc* (section on “difamación”); Libro de Estilo de Canal Sur Televisión / Canal 2 Andalucía (Art. 9.5); Libro de Redacción de *La Vanguardia* (Art. 6.1.1); Libro de Estilo de *Berria* (Art. 3.3); Estatuto de Redacción de *El Periódico de Catalunya* (Art. 7); Estatuto de Redacción de la Agencia Efe (Art. 11); Estatuto de Información de RTVE (Art. 9.14); Recomanacions sobre el tractament informatiu de la immigració (Consejo Audiovisual de Cataluña) (CAC) (Art. [A] 4); Recomanacions sobre el tractament informatiu de les tragèdies personals (CAC) (Art. [C] 14); Tractament informatiu dels successos i les emergències (Colegio de Periodistas de Cataluña) (Art. 11); Manual d'estil periodístic per a informacions sobre casos de violència domèstica o que afecten menors (Colegio de Periodistas de Cataluña) (Art. 7); Recomanacions sobre el tractament de la violència de gènere en els Mitjans de Comunicació (Colegio de Periodistas de Cataluña, Ayuntamiento de Barcelona e Instituto Catalán de la Mujer) (Art. 6); Recomendaciones para las buenas prácticas en la información sobre violencia de género (FAPE) (Art. 10); Código para informar sobre la violencia de género de *Público* (Art. 4); Recomanacions adreçades als mitjans audiovisuals per al tractament informatiu de les drogues (CAC) (Art. 5) and Recomendaciones del Consejo Audiovisual de Navarra para el tratamiento de noticias (Art. 3 and 7).
- [5] Libro de Estilo de Canal Sur Televisión/Canal 2 Andalucía (Art. 9.1.7); Libro de Estilo de *Berria* (Art. 3.3); Manual d'estil periodístic per a informacions sobre casos de violència domèstica o que afecten menors (Colegio de Periodistas de Cataluña) (Art. 7) and Sugerencias sobre cómo informar sobre infancia y violencia (Centro Reina Sofía) (Art. 7).
- [6] Libro de Estilo de Vocento (Art. 1.2.12.a).
- [7] Codi deontològic dels periodistes catalans (Art. 10); Barcelona TV. Llibre d'estil (Art. 2.2.22); Estatuto de Redacción de *El Periódico de Catalunya* (Art. 7);

Estatuto de Información de RTVE (Art. 9.14) and Código Deontológico do Xornalismo Galego (Art. 10).

- [8] Código deontológico del Sindicato de Periodistas de Madrid (Art. 14.2).
- [9] Principis d'actuació dels mitjans de la Corporació Catalana de Ràdio i Televisió (2.1.4 [A]) and Estatuto de Redacción de la Agencia Efe (Art. 11).
- [10] Principis d'actuació dels mitjans de la Corporació Catalana de Ràdio i Televisió (3.6.1).
- [11] Código deontológico de la profesión periodística (FAPE) (Art. 5.a) and Estatuto de Información de RTVE (Art. 9.14).
- [12] Libro de Estilo de Canal Sur Televisión/Canal 2 Andalucía (Art. 9.5).
- [13] Libro de Estilo de Telemadrid (Art. 2.10.a) and Libro de Redacción de *La Vanguardia* (Art. 6.1.1).
- [14] Libro de Estilo de Canal Sur Televisión/Canal 2 Andalucía (Art. 9.5.1).
- [15] Libro de Redacción de *La Vanguardia* (Art. 6.1.1).
- [16] Libro de Estilo de Telemadrid (Art. 2.10.a) and Libro de Redacción de *La Vanguardia* (Art. 6.1.1).
- [17] Libro de Estilo de Canal Sur Televisión/Canal 2 Andalucía (Art. 9.5.1).
- [18] Barcelona TV. Llibre d'estil (Art. 2.2.22); Recomanacions sobre el tractament de la violència de gènere en els Mitjans de Comunicació (Colegio de Periodistas de Cataluña, Ayuntamiento de Barcelona e Instituto Catalán de la Mujer) (Art. 6) and Recomendaciones del Consejo Audiovisual de Navarra para el tratamiento de noticias (Art. 5 and 7).
- [19] Barcelona TV. Llibre d'estil (Art. 2.2.22).
- [20] Principis d'actuació dels mitjans de la Corporació Catalana de Ràdio i Televisió (3.6.1) and Recomendaciones del Consejo Audiovisual de Navarra para el tratamiento de noticias (Art. 11).
- [21] Libro de Estilo de Canal Sur Televisión/Canal 2 Andalucía (Art. 9.5.1).

- [22] The press communication sent to the media by the press office of the Guardia Civil is reproduced in the blog *La Zaranda* by Manuel Mederos (30 November 2009): “¿Qué haría un periodista con esta nota de prensa?”. Retrieved 10 November 2010 at:
http://www.canarias7.es/blogs/zaranda/2009/11/que_haria_un_periodista_con_es.html
- [23] Libro de Estilo de Canal Sur Televisión/Canal 2 Andalucía (Art. 9.5.1).
- [24] The headings of the letters to the editor published in newspapers have been left out on the grounds that what above all is of interest is the professional practice of reporters.

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